

REMARKS

Entry of this amendment in this application, and favorable reconsideration of this application based on that amendment and these remarks, are respectfully requested.

Upon entry of this amendment, claims 7, 8, and 12 through 14 will remain in this case. Claim 12 is proposed to be amended. Claims 1 through 6, 9 through 11, and 15 through 20 are proposed to be canceled.

The allowance of claims 7 and 8 is noted.

To advance the prosecution of this case, claims 1 through 6, 9, through 11, and 15 through 20 are proposed to be canceled in this paper, without prejudice to the presenting of those claims in a continuing application.

Claims 12 through 14 were finally rejected under §112, ¶2, as indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

Claim 12 was specifically rejected under §112, ¶2 as indefinite because it was unclear whether the later recitation of "a human facial characteristic" and "a specified criteria" referred to the same respective elements as previously recited, or to a different human facial characteristic or specified criteria. Amendment is proposed to claim 12 in the manner suggested by the Examiner, so that the later recitations in the claim now refer to "the human facial characteristic" and "the specified criteria". Applicant submits that, not only does this proposed amendment clarify the claim to overcome the basis of the §112 rejection, but that this proposed amendment also does not change the scope of this claim and its dependent claims. In that regard, Applicant submits that the original phrase giving rise to the rejection was not referring to the characteristic or criteria individually, but was referring back to the evaluating steps or function. For example, the recording step before this amendment was recited as being performed responsive to "the evaluating step determining that the visual information from the scene includes information that is representative of a human facial characteristic and that satisfies a specified criteria", which

exactly matches the language of the evaluating step itself. As such, Applicant submits that there is no change in the scope of the claim presented by this amendment, and that entry of this amendment will require no further consideration or search.

Applicant therefore submits that, upon entry of this amendment, claims 12 through 14 will be in sufficiently definite form as to meet the requirements of §112. And considering that claims 12 through 14 were indicated as allowable if amended to overcome the §112 rejection.¹ Applicant therefore respectfully submits that, upon entry of this amendment, amended claims 12 through 14 will be in condition for allowance.

For these reasons, Applicant respectfully submits that all claims in this case will be in condition for allowance, upon entry of this amendment. Entry of this amendment in, and favorable reconsideration of, this application are therefore respectfully requested.

Respectfully submitted,



Rodney M. Anderson

Registry No. 31,939

Attorney for Applicant

Anderson, Levine & Lintel, L.L.P.

14785 Preston Road, Suite 650

Dallas, Texas 75254

(972) 664-9554

CERTIFICATE OF FACSIMILE TRANSMISSION

37 C.F.R. 1.8

The undersigned hereby certifies that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax Number 571.273.8300) on December 22, 2005.



Rodney M. Anderson
Registry No. 31,939

¹ Office Action of August 23, 2005, p. 13.